

# **PESTICIDE USE ENFORCEMENT PROGRAM ENFORCEMENT WORK PLAN**

## **NAPA COUNTY AGRICULTURAL COMMISSIONER'S OFFICE**

**2006 – 2009  
Revised October 2007**

### **COUNTY PROGRAM OVERVIEW**

#### **County Resources**

The Napa County Agricultural Commissioner's Office (CAC) has ten Agricultural Biologists and one Deputy Agricultural Commissioner that actively work in the pesticide use enforcement (PUE) program. Some biologists primarily work on the issuance of operator identification numbers (Op IDs) and restricted material permits (RMPs), while others conduct a wider variety of activities including inspections, investigations and outreach. Overall, including management, 7.6 full-time equivalent staff members work in the program.

#### **Workload**

PUE staff were redirected in the final two months of fiscal year (FY) 2006/2007 to spend time on pest detection, exclusion and eradication efforts for the Light Brown Apple Moth (LBAM) infestation beginning in May 2007. While many valuable inspections were conducted in 2006-2007, the 291 completed was an 88 inspection decrease from the 379 completed in 2005-2006. The majority of the decrease came from the reduction of field worker, application, and mix-load inspections conducted in May and June of 2007, as compared to that same time period in 2006. The goal for 2007-2008 is to increase inspections to the 2005-2006 numbers. Success of that goal may depend on how much time biologists are shifted to work on the LBAM project or other pest programs or changes in department emphasis.

In 2006-2007, 152 RMPs and 592 Op IDs were issued, 24 investigations were completed, and 520 notices of intent (NOIs) were reviewed. In 2007-2008, outreach to growers and pest control businesses will continue with a greater emphasis being placed on the needs of the Spanish speaking community. For the first time we will translate several key articles in our newsletter, *The Ag Rag*, into Spanish and will conduct two continuing education classes in Spanish, instead of one.

## **A. RESTRICTED MATERIAL PERMITTING**

### **Permit Evaluation**

The Napa CAC takes the issuance of restricted material permits seriously. Prior to each restricted permit renewal season, the CAC holds an in-house meeting in which the RMP issuance requirements and procedures are reviewed. During the issuance process, agricultural biologists work with growers and representatives of agricultural pest control businesses (PCB) to assess the need for the use of restricted materials. Permit applicants will be asked to communicate what additional mitigation measures they considered to reduce the risks of the use of a restricted material and what alternative treatment options they considered for sites adjacent to environmentally sensitive areas or schools, residential areas, etc. When a permit is denied because a grower did not consider mitigation measures or alternate treatments, a permit denial is logged. 37 permits were denied in 2006-2007, with the majority denied during January 2007.

RMPs are only issued to individuals that maintain valid certified applicator cards or licenses (Qualified Applicator License, Qualified Applicator Certificates and Private Applicator Certificates). Permit conditions for individual restricted materials are reviewed with growers; a handout of the particular information and NOI procedures is provided. The fact that permit conditions were reviewed with the grower or business representative is noted on the permit in the “conditions” section. In Napa County, RMPs are issued for a period of one year; no multiple year permits are issued, although we are reviewing the issues and impacts of adopting a multiple year permit system for implementation in 2009.

In Napa County, restricted materials that are often added to RMPs include aluminum phosphide, strychnine, 2,4-D, 1,3-Dichloropropene, and paraquat.

Hay and pasture growers are cautioned about the use of 2,4-D around grapes due to that crop’s extreme sensitivity. Extra attention is paid to the issuance of fumigant permits. Site visits are made before any permits are written for fumigants, and in the case of methyl bromide, a work site plan must be completed as per regulations. Accurate acreage of fumigation sites is determined with the use of Global Positioning System (GPS) technology.

In 2007-2008, agricultural biologists will utilize version 3.0 of the Ag GIS permit program for permit and operator identification number issuance and renewal. With the web-based application, ag biologists will continue to work with growers to accurately identify field boundaries and attribute them to their permit or Op ID. The program will generate an accurate map for all sites listed on RMPs and Op IDs.

Schools, daycare centers, hospitals and eldercare facilities are identified on the maps. Biologists can bring to the attention of the growers the proximity of these sensitive locations to their sites. The aerial photography gives the biologist an opportunity to accurately assess with the grower the surrounding environment and to identify any other sensitive sites. The use of aerial photography may aid in identifying previously unknown hazards. Greater permit restrictions would be mandated, or the permit would be denied, if a newly identified hazard could not be mitigated. Additionally growers will be reminded of DPR’s online

endangered species database Pesticide Regulation's Endangered Species Custom Realtime Internet Bulletin Engine (PRESCRIBE). When NOIs are received for restricted material applications, biologists will run PRESCRIBE for the specified pesticide if there is any concern that the application will be made at a sensitive site. The resulting information on any pesticide application limitations will be communicated to the grower.

### Program Strengths

- An experienced, committed PUE staff that will accurately evaluate sites for compliance with California Environmental Quality Act (CEQA) requirements prior to RMP issuance.
- Use of an annual in-house PUE meeting for review and training on RMP issuance prior to permit renewal season. Use of the DPR Compendium's Volume 3 (Restricted Materials and Permitting) as a training tool and reference guide for permit issuance.
- The use of Geographic Information Systems (GIS) technologies to accurately assess maps for restricted materials in relation to sensitive sites, including schools and daycares.
- The use of laser rangefinders and other measuring devices to accurately assess distances to dwellings and other sensitive locations prior to fumigation permit issuance.
- The use of an electronic NOI log developed in November 2004 to make the tracking of restricted material applications more efficient.
- A staff that includes members with varying educational and work backgrounds, Spanish language skills, as well as biologists who bring insight and experience from their work in other counties.

### Goal or Objective

The goal of the Napa County Agricultural Commissioner's Office is to accurately evaluate restricted material permit applications and issue or deny permits following the requirements outlined in DPR's *Restricted Materials and Permitting*, Pesticide Use Enforcement Program Standards Compendium, Volume 3.

### Measure of Success

A method to measure the success of the permit issuance process is to have an annual evaluation of the program. This evaluation should point out deficiencies in the program and highlight areas that need further improvement. This evaluation will include an analysis of non-compliances, complaints and illnesses associated with restricted materials applications. Because of Napa County's relatively low use of restricted materials, very few illnesses or complaints have been associated with such applications over the years. In addition, soliciting ideas from staff and our Enforcement Branch Liaison (EBL) will be the key to future improvements.

## **Site Monitoring Plan**

The Napa CAC prioritizes site monitoring for planned restricted material applications based on the potential for the chemicals to cause harm to the environment or human health. In FY 2006/2007, the Napa CAC received 520 NOIs. 295 of those NOIs were for the organically-certified spinosad prior to the expiration of the section 18 at the end of August 2006. The other pesticides for which NOIs were received in 2006-2007 include the following: aluminum phosphide, Vikane, paraquat, strychnine, and 1,3-Dichloropropene. Thirty five pre-application inspections were completed on the 220 notices of intent submitted for non-spinosad applications. That equates to a performance of 16.0% pre-application inspections on all non-spinosad NOIs. These inspections were conducted on NOIs submitted for herbicides, rodenticides, and 1,3-Dichloropropene applications among others. Including the spinosad NOI's, pre-application inspections were performed on 6.8 % of all NOIs received.

While pre-application and application inspections are performed on the use of a broad spectrum of pesticides requiring NOIs, a major emphasis is placed on monitoring fumigant applications. Site visits are made before any permits are written for fumigants, and in the case of methyl bromide, a work site plan must be completed. Accurate acreage of fumigation sites is determined with the use of GPS technology. All fumigation applications sites are monitored with special attention paid to jobs in the most sensitive areas. Since there are only two fumigation companies that work in Napa County, we do not document each application with an inspection. In 2006-2007, 11 such application inspections were completed.

Pre-application inspections are performed on all 2,4-D NOIs to assess any potential impact to grapes from such applications, since grapes are highly sensitive to 2,4-D. If applications are timed incorrectly, there is a greater potential for crop damage. If grapes are leafing out or bud swell is imminent, 2,4-D NOIs are denied and appropriately documented in the NOI denial binder.

## **Program Strengths**

- Use of GPS for analysis of fumigation site acreages for buffer zone verification accuracy.
- Ability to evaluate sites for sensitive locations (schools, hospitals, etc.) using GIS technologies prior to field inspections.
- Use of anemometers to evaluate meteorological conditions at the time of pesticide applications.
- Utilization of experienced staff to train and mentor newly hired biologists.
- A staff that includes members with varying educational and work backgrounds as well as biologists who bring insight and experience from their work in other counties.

### Goal or Objective

A commitment will be made to implement measures and use appropriate technology to ensure a site monitoring plan that takes into consideration pesticide hazards, local conditions, and permittee and pest control business compliance histories. Restricted material applications at the ag/urban interface will be carefully monitored. Priority of monitoring will be given to applications of materials, such as fumigants, that have a greater potential to cause harm to workers or the public. Priority will also be given to applications of materials, such as 2,4-D, that have the potential to harm crops or private property if not applied appropriately. A goal has been set to conduct pre-applications on at least 10% of all NOIs received, well above the DPR mandated 5%.

### Measure of Success

A measure of success of a monitoring plan would include the tracking of the percentage of pre-application and application inspections per NOI. The focus would be on materials with the greatest potential for causing human health problems, or environmental or property damage, taking into account the conditions at each site. A continual evaluation of the program will undoubtedly point out areas of strengths and deficiencies. Adjustments to the program can occur continually to correct any deficiencies.

## **B. COMPLIANCE MONITORING**

### **Comprehensive Inspection Plan**

Each year, the Napa CAC develops an inspection assignment program for staff assigned to perform PUE inspections. Numbers of inspections are assigned to each biologist based on experience in the program and the time available to work in PUE. Approximately 40% of inspections are scheduled records inspections, and 60% are some type of random field inspection. The Saturday inspection program will continue during the 2008 fungicide season. Work on Saturdays, as well as early mornings and evenings, allow for a broader targeting strategy and will give us contact with pesticide applicators that don't typically operate during the week or in daylight hours. Surveillance on Saturdays focus on both ag and non-ag pesticide applicators. During April through June 2006, 11 application and field worker inspections were conducted on Saturdays. Of the 11 inspections, only two had non-compliances, one of which lead to the issuance of a Letter of Warning for an emergency eyewash violation. The implementation of a Saturday inspection program, as well as inspection activity in the early morning and evenings, make it clear to growers and pest control businesses that they must be in compliance at all times, and that inspections will be conducted during periods other than normal business hours on weekdays.

For 2007-2008, ag biologists will continue using the Automated Inspection and Reporting System (AIRS) electronic inspection program developed by Statewide Soft. All biologists who conduct PUE inspections use a tablet PC loaded with the program software and a portable printer. The program allows biologists to produce and print a complete, legible inspection document in the field. Each inspection will be downloaded to a database on return to the office. While in the field, each biologist will have access to the database on their tablet

PC and can check on the compliance history of the growers they are inspecting. Staff will be able to query the database in numerous ways to check for non-compliance trends by specific violated code sections. Over time, such queries will provide information to allow for adjustments to the PUE program with the goal of increasing grower and business compliance.

### Records Inspections

Each biologist is given an alphabetical portion of the county's list of Op IDs and RMP holders in proportion to the individual inspection assignment numbers. The focus for these inspections is on operators with pesticide handler employees, restricted materials permits, and poor compliance records. These inspections are generally scheduled ahead of time. Small growers without employees are given a lower priority unless problems with compliance are known or suspected.

A major emphasis for 2008 will be in educating individuals and businesses on the new respiratory protection regulations. Outreach regarding the regulations will be directed through continuing education classes; the Napa County Ag Commissioner's website; *The Ag Rag* newsletter; a Napa County Ag Commissioner-produced, two-page summary handout; and grower organization newsletters and websites.

### Field Inspections

Biologists are given assignments to complete a certain amount of agricultural application, mix/load, and field worker safety inspections. These application inspections are handled in a random fashion. Biologists are encouraged to travel all of the side roads of Napa County, not just Highway 29 and the Silverado Trail, the two main north-south arteries. Field worker safety inspections are targeted based on knowledge of recent pesticide applications through inspections, pesticide use report reviews or visual clues of recent applications. Biologists share with each other at formal and informal in-house meetings their knowledge of growers and businesses to watch. Special attention will also be paid to small growers that may be operating with little regulatory contact from our office and who are in need of direction and assistance to establish and maintain compliance with regulatory requirements.

Continually educating pesticide users of their responsibilities in worker safety is a strategy to aid in the reduction of non-compliance rates and can be done through various outreach mechanisms. In the spring of 2008, Napa CAC will once again partner with the Napa County Farm Bureau to put on agricultural field day training. This training will include modules on proper pesticide application techniques and worker safety, first aid and health effects, protection of the environment, and pest identification. Education can also be disseminated through the department website, *The Ag Rag* newsletter, and at our yearly continuing education classes conducted in both English and Spanish. Additional outreach regarding ag commissioner resources and responsibilities is conducted by our two Spanish-speaking staff at health fairs facilitated by local clinics for the community and individual growers.

### Program Strengths

- A staff that includes members with varying educational and work backgrounds, Spanish language skills, as well as biologists who bring insight and experience from their work in other counties.
- Use of frequent in-house PUE meetings for sharing of information.
- An effective inspection strategy for records inspections targeting growers with employees and restricted materials.
- The use of GIS technologies to accurately assess maps for restricted materials in relation to sensitive sites.
- The use of GPS technologies to determine accurate acreages for fumigation monitoring activities.
- The use of an electronic NOI log to make inspections of restricted material applications more efficient.
- An organized method of logging inspections in a monthly Excel spreadsheet and making the spreadsheet and copies available in a binder for biologist review. Copies of inspections are also placed in grower and pest control business files.
- Making staff available to the EBL for oversight inspections and training.
- The use of continuing education meetings in English and Spanish to inform growers and their employees of common non-compliance trends and other pesticide regulatory information.
- Dissemination of important information through *The Ag Rag* newsletter and the department website. New for 2007 is Spanish language content for the newsletter. Information on the website has also been translated into Spanish.
- Participation and support of the Napa County Farm Bureau's agricultural field day training

### Areas Needing Improvement

- Conduct follow-up monitoring inspections with growers and businesses to determine if non-compliances are part of a trend or an aberration.
- Conduct follow-ups in a more timely fashion. Review with biologists the importance of follow-ups and provide more supervisory overview to make sure that they are completed.

### Goal or Objective

A commitment will be made to continually implement a comprehensive compliance inspection plan to ensure pesticide uses are adequately monitored throughout the county. The goal will be accomplished by continual biologist training and refresher training in effective inspection strategies, information sharing within the department, and the use of all available technologies including GIS and GPS equipment. Implementing a system of appropriate, and timely follow-ups would also lead to the accomplishment of this goal.

## Work Plan

The following table illustrates the work plan goal we developed for 2006-2007. The internal numbers are developed as an incentive for biologists to do their inspection work. We have generally experienced greater than a 90% completion of our overall inspection program goals. The goal numbers are subject to adjustment to meet the needs of any changing conditions with pest outbreaks or new pesticide monitoring needs identified by CAC or DPR.

### **2007-2008 Inspection Work Plan**

INSPECTION TYPE		GOAL
<b>APPLICATION</b>		<b>105</b>
<b>AGRICULTURAL</b>		<b>90</b>
<i>use A</i>	GROWER	<b>50</b>
<i>use A</i>	PCO	<b>40</b>
<b>STRUCTURAL</b>		<b>15</b>
<i>str A</i>	BRANCH 2	<b>12</b>
<i>str A</i>	BRANCH 3	<b>3</b>
<b>FIELD WORKER (<i>preap B</i>)</b>		<b>45</b>
<b>MIX/LOAD</b>		<b>25</b>
<i>use B</i>	GROWER	<b>12</b>
<i>use B</i>	PCO	<b>11</b>
<i>use B</i>	BRANCH 2	<b>1</b>
<i>use B</i>	BRANCH 3	<b>1</b>
<b>FUMIGATIONS</b>		<b>19</b>
	FIELD	<b>7</b>
	COMMODITY	<b>1</b>
	STRUCTURAL (Branch 1)	<b>11</b>
<b>RECORDS INSPECTIONS</b>		<b>127</b>
<i>rec A</i>	GROWER	<b>71</b>
<i>rec B</i>	OTHER (Gov, Golf, Misc)	<b>8</b>
<i>rec C</i>	DEALER	<b>3</b>
<i>rec D</i>	ADVISOR	<b>3</b>
<i>rec A</i>	AG PCB HQ	<b>15</b>
<i>rec C</i>	AG PCB BUSINESS	<b>15</b>
<i>rec B</i>	STR HQ	<b>6</b>
<i>rec D</i>	STR BUSINESS	<b>6</b>
<b>TOTALS WITHOUT PREAPS</b>		<b>321</b>
<b>PRE-AP/NOI (<i>preap A</i>)</b>		<b>5%</b>
<b>TOTALS</b>		
<b>NOIs</b>		
<b>PRE-AP</b>		



The PUE Deputy and Biologist IV consult with biologists on their inspection activities. Direction is provided for records inspection and monitoring inspection targeting strategies at scheduled in-house PUE meetings. More individual training on inspection strategies for less experienced staff will be handled by the Deputy and Biologist IV. The Deputy and Biologist IV, as well as the DPR EBL, accompany newer staff on unfamiliar or difficult inspections. Inspection activities will be targeted to growers/businesses with employees or with a history of non-compliances. The Deputy reviews all inspections prior to their logging for Pesticide Regulatory Activities Monthly Report (PRAMR) purposes and discusses with the inspecting biologist any follow-up needs and any potential compliance or enforcement actions necessary.

### **Measure of Success**

The ultimate measure of success would be a decrease over time in the non-compliance rates documented during inspections, as well as a decrease in pesticide episodes and complaints. Statistics themselves do not tell the whole story, however. A continual evaluation of the site monitoring plan by management and staff, with input and direction from the EBL, will lead to the best program possible. Another measure of success would be having a plan in place that is flexible enough to change in response to unexpected pesticide trends or pest outbreaks.

### **Investigative Response and Reporting**

#### **Initiation**

Napa CAC has instituted a very detailed investigative reporting structure for handling common pesticide complaints, illness investigations and priority episodes. Napa CAC strives to initiate all investigations in the timeliest manner possible. The county rarely performs priority investigations, but when informed of an episode that could turn into a priority, we initiate the first steps of the investigation immediately in accordance with the U. S. EPA/DPR/CACASA Cooperative Agreement and follow the time frames set forth. Napa CAC will submit to DPR a request for a time extension if the investigation cannot be completed by the date determined because of the necessity of obtaining additional information. Time extension notifications will also be provided for non-priority investigations as well.

Biologists prepare a plan before initiating any investigation. A list of questions is developed for involved parties, supervisors and any witnesses. If the case involves pesticide drift or some other pesticide contamination, a plan for sampling is developed following the procedures outlined in the DPR's Investigative Sampling Manual. Biologists can utilize one of the county's two sampling kits; they check to make sure all necessary sampling supplies are available prior to going to the field. Prior to commencing any sampling, the EBL is consulted on the issues of the case. Samples are only taken during investigations when there is the potential for an enforcement action, and the sampling process is not initiated until the EBL gives the authorization.

## Documentation

All pesticide complaints are investigated and documented. For basic complaints about odors, or neighbor disputes in which no violations are discovered, a simple electronic complaint form is used. The form provides space for complainant information, nature of the complaint and the documentation of the CAC field response. The complaints associated with growers or businesses are kept in the appropriate files. Miscellaneous complaints that cannot be attributed to any grower or organization are kept in a “miscellaneous complaints” file. All complaints are logged in the Excel spreadsheet where inspections and compliance actions are tracked.

Napa CAC follows the procedures and guidelines laid out in the Pesticide Episode Investigation Procedures Manual (PEIPM) when conducting investigations relating to pesticide illnesses and environmental or property damage incidents.

Routine antimicrobial illness investigations are conducted with the affected party and the employer; all of the information required by the PEIPM is obtained and documented on the Antimicrobial Exposure Episode Report form. DPR Antimicrobial Information Leaflets are sent to employers to inform them of their regulatory requirements.

For illness investigations other than those involving antimicrobials, a more thorough investigation is conducted. Affected parties are interviewed, usually separately from their employer or supervisor. The county’s two bilingual staff members assist with or conduct the interviews when the exposed party is a Spanish-speaking individual. When necessary, the assistance of the County Health Officer is solicited while conducting illness investigations. In many cases, a full records inspection is conducted with the grower or pest control business. An attempt is made to determine how the potential pesticide exposure occurred. Worker training, personal protective equipment usage, and pesticide label issues are all addressed to determine if a violation of the pesticide label or applicable laws or regulations occurred. The same general procedure is followed for pesticide episodes involving contamination or damage to the environment or public/private property.

Once all of the information is collected, the investigative report is written. Napa CAC uses a detailed, formal investigative report format. The format includes a summary of the incident and provides lists of the investigators, the violations discovered, and attachments. Witness statements are integrated with a chronological presentation of the investigator’s observations with reference to all of the attachments. Following the observation section is a compliance history and the findings of the investigation. The report will be the foundation for any compliance or enforcement actions to follow.

## Program Strengths

- Response and documentation of all general pesticide complaints.
- Development of investigation plans.
- Coordination and communication with the County Health Officer during illness investigations
- Completion of thorough investigative reports.

### Areas Needing Improvement

- Try to balance the need for quality of reports with the timeliness issue.
- Better utilize “elements of the violation analysis” techniques during the investigation process.
- Need to do a better job of keeping the EBL informed of the progress of investigations.

### Goal or Objective

A commitment will be made to implement an investigation response plan to ensure that all investigations are completed in a timely manner with accurate and supportive information.

### Measure of Success

The best way to measure success is in the timely submittal of investigations to DPR. We have streamlined our investigative report format for the more basic investigations which should help biologists complete their write-ups easier and quicker. Another way to measure success is to evaluate the number of investigations returned for lack of completeness. During 2006-2007, no investigations were returned by the Worker Health and Safety branch.

### **Mill Fund Special Projects**

The Napa County Commissioner, along with the commissioners in the counties of Sonoma, Mendocino and Solano, entered into a relationship with the California Land Stewardship Institute to be certifying agencies for the institute’s Fish Friendly Farming (FFF) environmental certification program. FFF is an incentive-based method of creating and sustaining environmental quality and habitat on private land. Landowners and managers enroll in the program, learn and apply environmentally beneficial management practices, and carry out restoration and erosion control projects. Ag commissioner staff joins Regional Water Quality Control Board and National Marine Fisheries staff to provide an objective third-party certification of each site.

In early 2007-2008, ag commissioner staff became familiar with the program and attended training. In August 2007, agricultural biologists joined the other agencies in reviewing growers’ farm conservation plans and performed site visits to view the progress of the implementation of the plans. The ag commissioner's responsibility is primarily to review the grower's plan as it relates pest monitoring, environmentally sound pesticide application and storage practices. Following any necessary final follow up site visits, FFF certification letters will be sent to growers who are successfully implementing the portion of their plan that the ag commissioner has responsibility for reviewing.

## **C. ENFORCEMENT RESPONSE**

### **Enforcement Response Evaluation**

The Napa CAC assesses the results of all inspections and investigations for the appropriate enforcement response. The investigating biologist first researches the compliance history of the grower, business or agency. Compliance histories can be checked by reviewing the Excel spreadsheet log maintained for all inspections. Copies of inspections are kept in a binder, by fiscal year, with the spreadsheet and also in a compliance sleeve in the grower/business file. The biologist would then refer to the Enforcement Response Regulation (ERR) to see where the violation would fit in the enforcement response hierarchy. Following discussion with the Biologist IV, the inspecting biologist would make a recommendation to the Deputy as to what type of response would be appropriate according to the ERR. In most cases, the Assistant Agricultural Commissioner is consulted as well.

The ERR classifies non-compliances as Hazard or Effect Violations (HEV) or Unclassified Violations (UV). For fine purposes, HEVs are further broken down into Class A (serious; \$700-\$5,000) Fines and Class B (moderate; \$250-\$1,000) Fines. Class A fines are employed for violations that create an actual health or environmental hazard. For Class A violations, the CAC will consider formal referral to the District or City Attorney or Circuit prosecutor. Class B fines are for violations that pose a reasonable possibility of creating a health or environmental effect. For Class B violations, the CAC will consider initiating communication with the District or City Attorney or Circuit prosecutor. UVs carry Class C (minor; \$50-\$400) Fines and are reserved for violations that do not threaten health, property or the environment. The ultimate fine level within the class is determined by assessing the respondent's compliance history, the amount of cooperation during the investigation and the level of harm or damage done to persons, the environment or property.

If the inspected party has had a clean compliance history for the past two years, and the non-compliances noted during an inspection are UVs that are corrected on site, the biologist will contact the permittee concerning the infraction. In cases where the violation did not threaten health, property or the environment, the non-compliance checked on the inspection form could serve as the method of documenting the issue or a Warning Letter or Violation Notice could be issued. For subsequent UV incidents, Enforcement Actions, including the levying of fines, may be proposed.

For first incident infractions of an HEV-B, a Compliance Action would be issued or an Enforcement Action proposed. Compliance actions would include Warning Letters, Violation Notices or Documented Compliance Interviews. All Warning Letters and Violation Notices are reviewed by Deputy and given final review by the Assistant Agricultural Commissioner prior to mailing. A Documented Compliance Interview is an informal meeting between someone with compliance issues and members of the CAC staff, with the purpose of coming to an understanding of what is required to be in compliance. A document outlining what was discussed at the meeting is produced and signed by all in attendance. If a compliance action is issued, a Decision Report (DR) would need to be completed and submitted to DPR to justify why a fine was not proposed. All subsequent HEV-B violations, an Enforcement Action would be proposed.

Following the ERR implementation, Napa CAC modified DPR's DR template to make the document more useful and understandable. Some of the changes made by Napa CAC modified version have been adopted by DPR for statewide distribution.

For all HEV-A violations, an enforcement action is required. Examples of commonly used enforcement actions are: Agricultural Civil Penalties (ACP); Structural Civil Penalties (SCP); revocation or suspension of county registration; and refusal, revocation or suspension of a restricted materials permit. An ACP includes the proposal of a fine. Violations identified on an inspection would trigger a thorough investigation as discussed earlier in the Investigative Response and Reporting Improvement section. Evidence that supports each element of a violation would be documented in the report. The findings in the written investigative report serve as the foundation for a civil penalty action. Since an ACP includes the proposal of a fine, respondents must be afforded their due process rights. Along with the Notice of Proposed Action (NOPA), a copy of the investigative report is sent to the respondent. They may pay the proposed fine or request a hearing and present evidence on their own behalf with the intent to disprove alleged violations.

During FY 2006/2007, Napa CAC issued 13 fines. The total amount of fines imposed for the fiscal year was \$10,000.00. Of those 13 NOPAs, there was only one hearing requested.

#### Program Strengths

- Development of a thorough investigative report to serve as the foundation for the ACP.
- Placement of fines at appropriate levels, based on the circumstances of the case.
- Improve communication among biologists, Deputy and Assistant Commissioners during case preparation.
- Use of post-hearing, debrief sessions to evaluate the strengths and areas of needed improvement in case development and hearing performance.

#### Areas Needing Improvement

- Need for more training in case preparation, witness preparation and advocate/hearing officer skills.
- Issue NOPAs and DRs in a timelier manner.
- Improve communication among biologists, Deputy and Assistant Commissioners during case preparation and NOPA development.
- Utilize the DPR Enforcement Branch more effectively when developing cases.
- Utilize District Attorney more effectively when working on difficult or high profile cases.

#### Goal or Objective

A commitment will be made to continue to assess each violation found during inspections and investigations, and take actions in accordance with the ERR.

### Measure of Success

The ultimate measure of success of the enforcement program is the reduction over time of serious non-compliances that justify the issuance of compliance and enforcement actions. Another measure of success of the program would be the placement of fines at appropriate levels based on the circumstances of each case in accordance with the ERR.